

October 17, 2007

Allen D. Watts  
1690 South Meridian  
Greenwood, Indiana 46143

*Re: Formal Complaint 07-FC-280; Alleged Violation of the Access to Public Records Act by the Greenwood Police Department*

Dear Mr. Watts:

This is in response to your formal complaint alleging the Greenwood Police Department (“Department”) violated the Access to Public Records Act (“APRA”) (Ind. Code §5-14-3) by denying you access to information. A copy of the Department’s response to your complaint is enclosed. I find the Department has not violated the APRA.

#### BACKGROUND

In your complaint you allege that you requested from the Department on September 10, 2007 copies of records related to an incident report for September 9. You allege the Department did not provide all the related information you requested. You mailed your complaint on September 14, and I received it on September 17.

The Department responded by letter dated September 24 from Joseph Pitcher, Chief of Police. Chief Pitcher explained the computer reporting system the Department uses to process the information related to incident reports. He contends you appeared at the Department office on September 10 to request a copy of the incident report regarding the noise complaint and were given a copy of the incident report. You then inquired about the supplement to the report, and the clerk told you she would need to check to determine whether it was completed. Later that day you sent an electronic mail message to Chief Pitcher indicating you believed the report to be incomplete. Chief Pitcher responded to you that day, providing you further information and indicating the supplement was not a matter of public record. He further provided you with the statutory authority (I.C. §5-14-3-5(c)) listing the information related to incident reports which the APRA requires law enforcement agencies to disclose.

## ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." I.C. §5-14-3-1. The Department is clearly a public agency for the purposes of the APRA. I.C. §5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Department during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. §5-14-3-3(a).

A "public record" means any writing, paper, report, study, map, photograph, book, card, tape recording or other material that is created, received, retained, maintained or filed by or with a public agency. I.C. §5-14-3-2.

A request for records may be oral or written. I.C. §5-14-3-3(a); §5-14-3-9(c). If the request is delivered by mail or facsimile (or email) and the agency does not respond to the request within seven days of receipt, the request is deemed denied. I.C. §5-14-3-9(b). If the request is made in person and the agency does not respond within 24 business hours, the request is deemed denied. I.C. §5-14-3-9(a).

A response could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. There are no prescribed timeframes when the records must be produced by a public agency. A public agency is required to regulate any material interference with the regular discharge of the functions or duties of the public agency or public employees. I.C. §5-14-3-7(a). However, section 7 does not operate to deny to any person the rights secured by section 3 of the Access to Public Records Act. I.C. §5-14-3-7(c). The public access counselor has stated that records must be produced within a reasonable period of time, based on the facts and circumstances.

Investigatory records of law enforcement agencies (except those listed in section 5 of the APRA) may be excepted from disclosure at the discretion of the agency. I.C. §5-14-3-4(b)(1). "Investigatory record" means information compiled in the course of the investigation of a crime." I.C. §5-14-3-2(h). A law enforcement agency means an agency or department that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders. It includes the state police department, local police or sheriff's departments, and prosecuting attorneys, among others. I.C. §5-14-3-2(1)(6).

An agency shall maintain a daily log or record that lists suspected crimes, accidents or complaints and the following information shall be made available for inspection and copying:

- (1) The time, substance, and location of all complaints or request for assistance received by the agency.
- (2) The time and nature of the agency's response to all complaints or requests for assistance
- (3) If the incident involves an alleged crime or infraction:
  - (A) the time, date and location of the occurrence;

- (B) the name and age of any victim, unless the victim is a victim of a crime under I.C. §35-42-4;
- (C) the factual circumstances surrounding the incident; and
- (D) a general description of any injuries, property, or weapons involved.

The information required in this subsection shall be made available for inspection and copying in compliance with this chapter. The record containing the information must be created not later than twenty-four hours after the suspected crime, accident, or complaint has been reported to the agency. I.C. §5-14-3-5(c).

Here, you appeared at the office of the Department on Monday, September 10 to request records related to an incident report of 12:37am on September 9. You were provided a copy of the incident report, which upon my review contains all the information required to be disclosed under I.C. §5-14-3-5(c). While you requested a copy of the supplemental report to which the incident report referred, the Department is not required to provide that supplemental report under I.C. §5-14-3-5(c), since the incident report contained the information required to be disclosed. Further, if the supplemental report is an investigatory record, the Department may withhold that supplemental report from disclosure under I.C. §5-14-3-4(b)(1).

Regarding the time for disclosure of the records, Chief Pitcher indicated that because the incident occurred during the weekend and the staff who enters the information into the computer system work Monday through Friday, not all information from weekend incidents has been entered by Monday morning. While I.C. §5-14-3-5(c) requires record to be created no later than 24 hours, it does not require production of the record upon request within 24 hours of the incident. Here, it is my understanding the report was created within 24 hours of the incident but was not entered into the computer system until Monday when the staff who enters the information was available to do so. If I understand the Department's process and system correctly, it is my opinion this is not a violation of the APRA.

#### CONCLUSION

For the foregoing reasons, I find that the Department has not violated the APRA.

Best regards,



Heather Willis Neal  
Public Access Counselor

cc: Chief Joseph Pitcher, Greenwood Police Department